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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/980,092	02/11/2002	Jan Abraham Van Asselt	VANASSETT.NEW1	8120

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EXAMINER

HUNTER, ALVIN A

ART UNIT PAPER NUMBER

3711

DATE MAILED: 07/25/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/980,092

Applicant(s)

VAN ASSELT, JAN ABRAHAM

Examiner

Alvin A. Hunter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 14 May 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The corrected or substitute drawings were received on May 14, 2003. These drawings are accepted.

Specification

2. The disclosure is objected to because of the following informalities: Specification should be amended to show reference numbers to the target and backboard within the drawings.

Appropriate correction is required.

Claim Objections

3. Claims 22, 24, 25 and 26 are objected to because of the following informalities:
 - a) In claims 22, 24 and 25, "one or both guideways" should read --at least one guideway--;
 - b) in claim 26, "of the or each guideway" should read – of the at least one guideway-- .

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 15-28 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable

one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. What is the minimum spacing and maximum spacing of the guideways? What is the buffering and/or deflector means? How is the tension mechanism used? How is the inclination varied? The above are just a few questions showing that the specification does not make it clear as how to make the invention.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 15-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 recites ". . . length greater than the minimum spacing of the guideways and less than the maximum spacing of the guideways . . ." The claim and disclosure is deficient as what the minimum spacing and the maximum spacing should be and has been rejected. Claims 16-28 are also rejected for being dependent upon claim 15.

Claim 28 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: means for connecting and holding the backboard or target to apparatus.

Claim 15 recites the limitation "the minimum spacing" and "the maximum spacing" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 18 recites the limitation "the other end" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 22 recites the limitation "the reciprocating means" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 25 recites the limitation "the reciprocating means" in lines 2 and 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 28 recites the limitation "the user" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 15-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilbey-Thompson (GB 201645) in view of Lingbeek (USPN 3630521).

Gilbey-Thompson discloses a golf practice device wherein strokes may be practiced in a restricted area (See Provisional Specification). The device comprises two upwardly inclining diverging wires secured to the ground by stakes or poles wherein the wires carry a ball fastened by wires with a terminal ring (See lines 62 through 29). Gilbey-Thompson does not disclose the wires being elastic. Lingbeek discloses a baseball batting practice device in which the ball (5) is attached to a line (4), or what the applicant calls a reciprocating means, which is attached to two low friction lines (2), or what the applicant calls guideways, via rings (3) to allow the ball to move along the low friction lines (See Entire Document). The low friction line may be a clothesline wire

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(See Column 1). From a careful reading of Lingbeck, the low friction lines are submitted to be substantially inelastic, or rigid, being that the only deforming of any line is the line in which attaches the ball to the low friction line. Low friction line allows the ball to travel smoothly along the low friction line. One having ordinary skill in the art would have been motivated to use low friction lines, as taught by Lingbeck, in order to facilitate the smooth movement of the ball after it has be struck. A reeling means is inherent within Lingbeck being that the lines (2) are connected to a post (1). It appears that the lines may be wrapped around the post (1) for storage.

Response to Arguments

Applicant's arguments with respect to claims 15-28 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin A. Hunter whose telephone number is 703-306-5693. The examiner can normally be reached on Monday through Friday from 7:30AM to 4:00PM Eastern Time. No interview will be held after final rejection. Interviews after final will only be held if allowable subject matter has been indicated or to clear up errors by fault of the examiner.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Sewell, can be reached on (703) 308-2126. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9302.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Alvin A. Hunter, Jr.



Paul T. Sewell
Supervisory Patent Examiner
Group 3700